

**Meeting of the States Parties to the Convention  
on the Prohibition of the Development,  
Production and Stockpiling of Bacteriological  
(Biological) and Toxin Weapons and on Their  
Destruction**

9 August 2013

English only

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**2013 Meeting**

Geneva, 9–13 December 2013

**Meeting of Experts**

**Geneva, 12–16 August 2013**

Item 7 of the provisional agenda

**Standing agenda item: strengthening  
national implementation**

**Compliance with the BWC: preliminary considerations by  
Switzerland**

**Submitted by Switzerland**

**I. Introduction**

1. In BWC/MSP/2012/WP.11, Australia, Canada, Japan, New Zealand and Switzerland recommend that an initial conceptual discussion ‘designed to promote common understanding of what constitutes compliance with the BWC and effective action to enhance assurance of compliance’ should be held at the 2013 Meeting of Experts under sub item e) of the standing agenda item on strengthening national implementation. States Parties were asked to submit their views on a number of specific questions in advance, in order to facilitate this discussion. This document outlines the preliminary Swiss considerations on this issue.

2. Switzerland views a discussion on compliance with the BWC to be of particular significance. Addressing the issue of compliance with the BWC is both opportune and necessary, not least because past certainties may no longer be valid in light of the rapid developments in the biological sciences. In addition, the development and implementation of practical and incremental measures at the national and international level could not only reinforce assurances of compliance, but also potentially ease the way towards more stringent measures and mechanisms. In this context, we find it important to state that Switzerland always sought to strengthen the BWC and is, in principle, still in favour of a (multinational) legally-binding compliance framework. However, we are aware that such an endeavour is politically not feasible at the moment and that simply duplicating arrangements that work fine for other conventions may not be adequate for the distinct characteristics of the biological weapons problem as well as the particular nature of progress in the life sciences.

## II. What constitutes compliance with the BWC?

3. Ensuring that States Parties to the BWC comply with its different provisions is a key element for international security. A discussion on compliance is also necessary in light of the rapid developments in the life sciences. Such a discussion should be undertaken with a view to developing common understandings and identify actions that can be undertaken at the next Review Conference and that would result in strengthened national implementation and hence compliance. As stressed in the document BWC/MSP/2012/WP.11, a discussion on compliance would include different aspects. In particular, it should address 1) what actions, either positive or negative, are necessary to achieve compliance and 2) how States Parties can demonstrate and communicate compliance.

4. In our preliminary view, compliance with the BWC includes, but is not necessarily limited to, adhering to and/or implementing on the national level the following treaty provisions:

(a) Never under any circumstances to develop, produce, stockpile or otherwise acquire or retain biological weapons as specified in Article I;

(b) To destroy, or to divert to peaceful purposes, all agents, toxins, weapons, equipment and means of delivery specified in Article I as stipulated in Article II;

(c) To establish and enforce effective national laws and regulations, including penal and export control legislation, as well as related control mechanisms for dangerous pathogens, their transfer, activities and facilities involving such pathogens – including dual-use research of concern, laboratory/workers security and safety, etc. as specified in Articles III and IV;

(d) To promote general openness and transparency, including in national biodefence programmes and activities as well as with regard to national implementation, through, inter alia, the commitment to consult and cooperate in solving any issues raised under Article V, the regular submission of comprehensive CBM declarations, the designation of a national BWC point of contact, and the submission of information in the framework of the quinquennial BWC Compliance Reports;

(e) To promote awareness of the Convention, its provisions and any other relevant issue related to it, including dual-use research of concern, through the engagement of the scientific community and civil society in order to foster a culture of responsibility in the life sciences;

(f) To establish national arrangements, to the fullest possible extent, for the implementation of activities under Article X to support treaty implementation, and to promote capacity-building for peaceful purposes, notably in industry and academia, but also among States Parties that are in a position to do so.

5. Furthermore, Switzerland aligns itself with the views expressed by the UK in BWC/MSP/2013/MX/WP.1 that 1) a distinction should be made between compliance with Articles I and II on the one hand and Articles III and IV on the other, as non-compliance with Articles III and IV is not the same as non-compliance with Articles I and II; 2) assessing compliance is not straightforward in the current BWC framework, as the mere presence or absence of certain elements does not necessarily allow for a definite judgement on a State Party's compliance status but should rather be seen as an indication, which, when aggregated over time, may demonstrate certain patterns and allow for a more comprehensive evaluation; 3) being in compliance includes both the presence and absence of certain activities and attitudes; and that 4) we need to be realistic about the level of burden that certain, especially smaller States Parties with limited resources can cope with in meeting their obligations rather than automatically assume non-compliance.

### III. How can States Parties better demonstrate their compliance with the BWC and thereby enhance assurance for other States Parties? And additional questions...

6. Demonstrating compliance with the BWC essentially consists of two distinct aspects. One aspect is for every State Party to communicate compliance by providing relevant information. Several tools already exist to this end but should be strengthened. The other aspect is for States Parties to consider, either individually or collectively, the information provided and to provide feedback thereon. Processes and mechanisms regarding the second aspect are, however, missing at this stage. A number of other measures above and beyond those two central aspects could also contribute to demonstrate compliance (“additional questions”). Compliance may be demonstrated, communicated and/or affected by the following elements:

(a) Review, strengthen and broaden participation in the CBM process – in our view the central instrument to demonstrate compliance in the current BWC framework – including considering whether additional information to that which is already requested in the current CBMs would enhance assurance of compliance, as well as by exploring ways and means that allow for an analysis/discussion of the information provided and for addressing ambiguities, doubts and suspicions;

(b) Increase efforts to ensure the full implementation of treaty obligations, including through detailed implementation/compliance reporting, e.g. in the framework of the quinquennial BWC Compliance Reports or by regularly submitting up-to-date information to the ISU national implementation database;<sup>1</sup>

(c) Submit yearly (tabular) reports compiled by the ISU on the basis of information provided by States Parties (through elements under a) and b) above) on the status of national implementation and national legislation in particular – similar to what is done in the framework of the CWC (see example in Annex). Such a tool would allow States Parties to better demonstrate their compliance with the BWC and to generally assess the state of BWC implementation;

(d) Develop (voluntary) approaches such as the compliance assessment concept put forward by Canada, the Czech Republic and Switzerland<sup>2</sup>, which proposes to demonstrate compliance with the BWC by assessing a country’s implementation of the treaty (e.g. through an examination of national legislation), or the peer-review mechanism suggested by UNIDIR and France<sup>3</sup>;

(e) Develop joint activities between States Parties under Article X, such as the Iraqi-Swiss biosafety/biosecurity expertise exchange project<sup>4</sup>, which ideally may serve the two objectives of supporting implementation/compliance and enhancing assurance of compliance;

(f) Host mutually agreed visits to biodefence and other relevant facilities in order to foster transparency and build an environment of openness and trust;

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[http://www.unog.ch/80256EE600585943/\(httpPages\)/7334A12E5C4C3D3EC1257AC400537C4A?OpenDocument](http://www.unog.ch/80256EE600585943/(httpPages)/7334A12E5C4C3D3EC1257AC400537C4A?OpenDocument)

<sup>2</sup> BWC/MSP/2012/WP.6

<sup>3</sup> BWC/MSP/2012/WP.12

<sup>4</sup> See [www.unog.ch/bwc](http://www.unog.ch/bwc) --> Restricted Area for States Parties --> Database --> Additional information provided

(g) Organise international conferences on relevant BWC topics in order to foster regular exchange of views among States Parties;

(h) Strengthen the UNSGM for the investigation of alleged use of biological weapons, which provides a capability that should be used for any investigations under Article VI as accepted by the Seventh Review Conference. Most vital to the sustainable operationalisation of the UNSGM is the nomination of additional experts with relevant expertise, the conduct of continuous training of experts on the roster, and addressing proficiency issues related to analytical laboratories;<sup>5</sup>

(i) As advances in science and technology may affect issues of compliance, including certain aspects of national implementation, questions of transparency and mistrust as well as investigations under Article VI, the establishment of a mechanism/working group that *systematically* reviews relevant developments in science and technology would be a key tool for identifying relevant advances and assessing their beneficial and/or detrimental impact on compliance, national implementation, investigations of alleged use, etc. as well as on the BWC and international security in general.

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<sup>5</sup> [http://www.un.org/disarmament/WMD/Secretary-General\\_Mechanism/](http://www.un.org/disarmament/WMD/Secretary-General_Mechanism/); [http://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/SG\\_Mechanism\\_Fact\\_Sheet.pdf](http://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/SG_Mechanism_Fact_Sheet.pdf)

## Annex

## Example for reporting on the status of national implementation

### STATUS OF IMPLEMENTATION OF ARTICLE VII [“National Implementation Measures”] OF THE CHEMICAL WEAPONS CONVENTION

SWITZERLAND									
Indicators Under The Plan Of Action, Including Legislative Coverage (Except For Requirements Under Subparagraphs (a) To (c) Of Article VII(1))									
National Authority Designated Or Established	Status Of Legislative And Regulatory Implementation		Text Of Adopted Measures Provided	Confirmation Regarding Article XII(2)(e) Review	Submission Of Initial Declarations	Submission in 2012 of ADPA for 2011	Article VI Project	Year(s) Of Article X(4) Submissions	
	Article VII(5) Submission Received	Legislation Covers All Key Areas							
X	X	X	X	X	X	X	X	'98 – '12	
Legislative Coverage									
Schedule 1 Control Regimes, Incl. Penalties				Schedule 2 Control Regimes, Incl. Penalties		Schedule 3 Control Regimes, Incl. Penalties		Declaration Regime For OCPFs, Incl. Penalties	Source
Prior Reporting On Transfers	Reporting On Past Transfers	Approval For Production	Reporting On Production	Reporting On Transfers	Reporting On Production, Processing, And Consumption	Reporting On Transfers	Reporting On Production		
X	X	X	X	X	X	X	X	X	LQ2

Source: Report by the OPCW Director-General: Status of implementation of Article VII of the Chemical Weapons Convention as at 27 July 2012. OPCW Executive Council, EC-70/DG.4, C-17/DG.7, 28 August 2012, p. 89.